

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER BRANDON DAVIS,

Plaintiff,

v.

M. PORTILLO, et al.,

Defendants.

Case No.: 1:22-cv-00457-ADA-CDB (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS
CERTAIN CLAIMS

(ECF No. 22)

Plaintiff Christopher Brandon Davis (“Plaintiff”) is proceeding *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 25, 2023, the Magistrate Judge issued findings and recommendations, recommending that this action proceed only on the following claims: (1) First Amendment retaliation claims against Defendant Portillo (claims one & four) and Defendant Brown (claim three); (2) an Eighth Amendment excessive force claim against Defendant Portillo (claim two); (3) an Eighth Amendment failure to protect claim against Defendant Molina (claim one); and (4) a due process clause violation against Defendant Brown (claim three), as alleged in Plaintiff’s first amended complaint. (ECF No. 22 at 2.) The Magistrate Judge further recommended that the remaining claims be dismissed. (*Id.*) Plaintiff was afforded fourteen days within which to file objections. (*Id.* at 2.) No objections have been filed, and the time to do so has now passed.

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a
2 *de novo* review of this case. Having carefully reviewed the file, the Court finds the findings and
3 recommendations to be supported by the record and proper analysis.

4 Accordingly,

- 5 1. The findings and recommendations issued on April 25, 2023, (ECF No. 22), are
6 ADOPTED in full;
- 7 2. The action SHALL proceed *only* on the following claims: (1) First Amendment
8 retaliation claims against Defendant Portillo (claims one & four) and Defendant Brown
9 (claim three); (2) an Eighth Amendment excessive force claim against Defendant
10 Portillo (claim two); (3) an Eighth Amendment failure to protect claim against
11 Defendant Molina (claim one); and (4) a due process clause violation against Defendant
12 Brown (claim three);
- 13 3. The remaining claims in Plaintiff's first amended complaint are DISMISSED; and
- 14 4. This action is referred back to the assigned Magistrate Judge for further proceedings.

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17 IT IS SO ORDERED.

18 Dated: June 30, 2023

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UNITED STATES DISTRICT JUDGE